

## **MEETING RECORD**

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, May 29, 2013, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Michael Cornelius, Tracy Corr, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber; Marvin Krout, Brian Will, Tom Cajka, Sara Hartzell, Stacey Groshong Hageman, Jean Preister and Michele Abendroth of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Michael Cornelius called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Cornelius requested a motion approving the minutes for the regular meeting held May 15, 2013. Motion for approval made by Lust, seconded by Scheer and carried 6-0: Cornelius, Corr, Hove, Lust, Scheer and Weber voting 'yes'; Sunderman abstaining.

Mayor Chris Beutler expressed appreciation to Wendy Francis and Leirion Gaylor Baird for their years of service on the Planning Commission and their enormous contributions to the recent major update of the Comprehensive Plan. Wendy Francis resigned for health reasons in April and Leirion Gaylor Baird was elected to the City Council in May.

Gaylor Baird expressed appreciation to the Mayor for the opportunity to serve on the Planning Commission, and to the staff for their expertise and assistance. Serving on the Planning Commission was more than she expected it to be in positive ways, and she thanked those who came to testify, which made the role very rewarding.

The Clerk then read Planning Commission Resolutions No. PC-01335 and PC-01336 into the record honoring Wendy Francis and Leirion Gaylor Baird, respectively.

Lust moved approval of Resolution No. PC-01335 honoring Wendy Francis for five years and seven months of service on the Planning Commission, seconded by Hove.

Cornelius expressed appreciation to Wendy Francis for the very unique perspective she brought to the Commission as a realtor and someone who has lived in urban and suburban environments.

Motion for approval carried 7-0: Cornelius, Corr, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

Corr moved approval of Resolution No. PC-01336, honoring Leirion Gaylor Baird for five years and eight months of service on the Planning Commission, seconded by Scheer.

Cornelius stated that he is glad that when the Planning Commission makes recommendations, he now knows who they are going to.

Motion for approval carried 7-0: Cornelius, Corr, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'.

**CONSENT AGENDA**

**PUBLIC HEARING & ADMINISTRATIVE ACTION**

**BEFORE PLANNING COMMISSION:**

**May 29, 2013**

Members present: Cornelius, Corr, Hove, Lust, Scheer, Sunderman and Weber.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 13010.**

There were no ex parte communications disclosed.

Lust moved approval of the Consent Agenda, seconded by Weber and carried 7-0: Cornelius, Corr, Hove, Lust, Scheer, Sunderman and Weber voting 'yes'. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 13006**  
**LANDMARK DESIGNATION**  
**and**  
**SPECIAL PERMIT NO. 13014**  
**TO USE A LANDMARK PROPERTY AS A**  
**BUSINESS OFFICE AND RESIDENCE,**  
**ON PROPERTY LOCATED AT 1201 D STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 29, 2013

Members present: Hove, Weber, Lust, Sunderman, Corr, Scheer and Cornelius.

There were no ex parte communications disclosed.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Staff presentation: **Stacy Hageman of Planning staff** explained that this change of zone request is to designate the Bowman-Cameron house at 1201 D Street as a historic landmark. The residence is located on the southeast corner of 12th and D Streets and is surrounded by multi-family residences with a social services facility to the northwest. The house is a 2 ½ story Italianate-Queen Anne residence with hipped roof and clapboard exterior of a rectangular plan with front verandah and rear enclosed porch. The west facade features a two-story bay window with inset wood panels. The house also features a wide cornice with bracketed eaves. The wide north porch has a flat roof with four columns equally spaced. The house was converted into six apartments in 1939 and has served as multi-family since then and is currently under rehabilitation.

The house was built in 1885 by Thomas Price Harrison, a prominent Lincoln builder from 1880 to 1920. The house was built for Dr. John W. Bowman, an early physician and insurance executive in Lincoln and superintendent of the Lincoln Asylum (now Lincoln Regional Center). The next long term resident was Joseph Cameron, who served as a Lancaster County Commissioner from 1919 to 1935. The house is of architectural significance because it is one of the earliest examples of Thomas Price Harrison's many buildings in Lincoln; it also has humanitarian significance for its ties to Dr. Bowman; and also political significance for the long term resident, Joseph Cameron, for his civic contributions and long tenure as a county official.

Hageman then explained that the associated special permit is requested to permit use of the premises for mixed use as an office and one dwelling. The applicant operates an engineering office on the first floor with a dwelling unit on the second floor. There is parking in the garage for the residential use and there will be three parking spaces in the driveway for the office use. The R-7 district requires one parking stall per dwelling unit and the B-3 district (which is compatible with the office use) requires one parking stall per 600 sq. ft. of office, thus the parking requirement is met by widening the driveway.

**Proponents**

**1. Pam Dingman of Engineering Design Consultants**, 1021 D Street, testified on behalf of New Horizons, an environmental consulting firm specializing in lead paint and asbestos abatement. This is a public/private partnership with the current owner of the property, NeighborWorks, doing the renovation and New Horizons purchasing the property. Stephanie Isaacson of New Horizons will occupy the second floor. New Horizons is a Kansas City-based firm. The first floor will be used for her employees.

There was no testimony in opposition.

**CHANGE OF ZONE NO. 13006**

**ACTION BY PLANNING COMMISSION:**

May 29, 2013

Lust moved approval, seconded by Scheer.

Corr commented that this is a nice mixed use development in one of the older neighborhoods and it is supported by the Comprehensive Plan. This is a great opportunity. There is already another similar situation in the neighborhood that has worked out very well and she is excited to see this come to fruition as well.

Motion for approval carried 7-0: Hove, Weber, Lust, Sunderman, Corr, Scheer and Cornelius voting 'yes'. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 13014**

**ACTION BY PLANNING COMMISSION:**

May 29, 2013

Weber moved to approve the staff recommendation of conditional approval, seconded by Lust and carried 7-0: Hove, Weber, Lust, Sunderman, Corr, Scheer and Cornelius voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**COUNTY CHANGE OF ZONE NO. 12038**  
**FROM AG AGRICULTURE DISTRICT TO**  
**AGR AGRICULTURE RESIDENTIAL DISTRICT,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**N.W. 126<sup>TH</sup> STREET AND W. BLUFF ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 29, 2013

Members present: Hove, Weber, Lust, Sunderman, Corr, Scheer and Cornelius.

There were no ex parte communications disclosed.

Staff recommendation: Denial.

Staff presentation: **Sara Hartzell of Planning staff** presented the proposal for change of zone from AG to AGR on approximately 33 acres that abut and actually cross over into the Malcolm 1-mile extraterritorial jurisdiction (ETJ). This change of zone does not include the property located in the Malcolm ETJ. The future land use map shows this area as future AG zoning. There is an area close by on the west shown as future AGR. Inside the Malcolm ETJ the lots are approximately 10 acres and still zoned AG in Malcolm for future 3-acre residential lots. The assumption would be that you are inside the city with future residential and on city services.

Hartzell stated that the Comprehensive Plan does not show this as future AGR; however, we do have direction that says that every application should be analyzed on several factors, one being the roads. These are all gravel roads with relatively low traffic counts – 200 trips per day on the Bluff Road side and 25 trips per day on 126<sup>th</sup> Street side. Bluff Road was realigned because it crosses a stream in this area and there were some problems with the angle of the crossing. The realignment and the intersection with 126<sup>th</sup> Street does have some conflicts and the County Engineer is concerned that any additional access onto Bluff Road would be a problem.

Water quality and quantity is another issue in this quadrant of the County. There was a well report brought in with this application. There is a house and the report does show adequate water quality and quantity; however, the Village of Malcolm did send in a letter with concern about the possible additional 8-10 lots because their well field is in this general area. After that letter was brought in, the Lincoln-Lancaster County Health Department decided they would prefer to see more extensive well information before making a recommendation of approval.

Hartzell advised that the soil and wastewater is comparable to any other part of the county. There is a small portion that is prime farm land. The shape and size of the parcels would mean there would not be any negative effect on agricultural production in the area.

The property is not in Malcolm's one-mile jurisdiction, but they are concerned should Malcolm grow out in that direction.

This is not shown in Lincoln's future land use plan. There is some future low density shown in the area; however, with the concerns about access and the water, the staff had requested that the applicant bring in a proposed community unit plan along with the change of zone, but the applicant has chosen to move forward with the change of zone request by itself.

Lust was curious how the analysis might change if the applicant submitted a community unit plan or preliminary plat with the change of zone. Hartzell explained that a CUP would show the layout of the lot pattern, the access, the shape of the lots, how the roads would be laid out; and a CUP or preliminary plat would require test wells for every 10 acres. If the change of zone moves forward to the County Board and is denied, the applicant would have a one-year waiting period to apply again for the change of zone. If the applicant submits a CUP, the change of zone could be held until the CUP catches up. If the Planning Commission were to recommend denial of the change of zone, the applicant could withdraw it between now and the public hearing before the County Board and reapply later on.

Even if the change of zone is approved, Weber assumed the applicant would still have to come back with a CUP or preliminary plat with the well information before they could move forward to development. Hartzell concurred that the applicant would not be able to do any subdividing without the CUP or preliminary plat, but with the change of zone approved, it is more of an assumption that a subdivision will be approved. Thus it is more difficult to deny a CUP or preliminary plat when the zoning is already in place.

Weber wondered whether the applicant is guaranteed approval if they come back with good well data. Hartzell suggested that if the well information and access met the County Engineer's concerns, the staff would be able to support it.

Corr wondered why this application has been deferred several times. Hartzell explained that the staff had requested that the applicant submit some kind of a sketch plan laying out the lots and access and provide the water information.

Corr inquired whether any application has been made to Malcolm on the triangle of property in Malcolm's jurisdiction. Hartzell did not know.

Weber acknowledged that the applicant would need to do three test wells, and he wondered whether the existing well could be used as one of those three. Hartzell stated that the information on the existing well would be used along with two other test wells.

Proponents

**1. Dennis Robey**, 335 SW 24<sup>th</sup> Street, Cape Coral, FL 33991, the applicant, explained why this particular application has taken so long to get to the Planning Commission. He and his wife (who owns the property) now live in Florida, which is one of the biggest reasons they are asking to change the zoning. The applicants did visit with the engineering companies about a CUP, but the cost was so prohibitive that they decided to wait until the house is sold. The house has not yet been sold and has devalued so much because of the economy. They were hoping the change of zone would attract other people to purchase the land who might have more knowledge about laying out the property.

Robey then showed some drawings in an attempt to address the road and safety issues. Both accesses would come off 126<sup>th</sup> Street, which would address Malcolm's concern with future access.

With regard to water, Robey stated that their own well report was one of the best in the area. Therefore, he assumes the other lots within the 30 acres would have similar water quantity and quality, especially considering that there are several other properties in that area that have sufficient water supply. Robey acknowledged that if the zoning change is granted, prior to any building of any properties or any development, he would certainly have to work with Planning to insure that there is adequate water supply.

Lust inquired whether there is any more recent well information than 2005. Robey stated that there is not. If he is granted the change of zone, he could certainly present that information.

Hove wondered about the attraction of making this a residential area. Robey's responded that when he purchased the acreage six years ago, he did so realizing that it was pretty much acreage sites and he thought that in the future he would move his family out there from Omaha. It is set up perfectly for future residential. This area is all acreages. You cannot derive an income from AG on this number of acres.

Hove inquired of the applicant as to whether there would be any problems with the shape of the property. Robey suggested that it really is not restrictive at all but the lots have to be a little larger. "In this scenario" (referring to a sketch), there would be six additional lots and he does not believe it would hamper or restrict the water supply in Malcolm. There would only be two accesses and he does not foresee any engineering problems with more than 200' on either side of either of those access points.

There was no testimony in opposition.

Staff questions

Sunderman asked staff to respond to the sketch plans shown by the applicant. Hartzell advised that staff has not seen the layout which was shown by Robey; however, it does not yet address the water issue, and that would be helpful.

Weber stated that he is not as concerned about the access as the water. If the change of zone is approved, how would the water issue be dealt with? Hartzell suggested that the water issue would have to be addressed during the process of development in steps with the change of zone being first, then the CUP and then the final platting and actual construction – the change of zone approves one of those steps. But, she cautioned that it is hard to step backwards after approving the change of zone and then not approve the CUP or preliminary plat.

Weber suggested that a developer/owner would want to look at the least expensive step first. If there is no water, then it's pretty much a done deal. If there is water, then there is going to be the well expense and then the site plan.

As far as the water issue, Sunderman wondered if a house can be built if the zoning is changed without Health Department approval. Hartzell believes that water and wastewater approval by Health Department is part of the building permit process. The special permit for the CUP could include a condition of approval that requires that there must be a well put in place before any of the lots are sold.

Hove confirmed that the water issue will require test wells. Hartzell agreed.

Lust commented that she understands communication has been an issue, but is there a reason we could not defer again asking for some test well information? Marvin Krout, Director of Planning, explained that this proposal was deferred several times previously



because the applicant wasn't able to communicate with staff until he called yesterday. It was just out of frustration and not being able to communicate that we weren't able to really visit and talk about this. He does not have a problem with deferring again, but the staff was not sure the applicant was even interested in continuing the application until today. If the Planning Commission votes to defer, the applicant would have to come back again. Krout was also not sure what can be done with or without a CUP. Now that we know we have a motivated applicant, the staff is willing to work with him.

Cornelius wondered about approving the change of zone contingent upon suitable water and access shown through a CUP or other means approved by the Director of Planning. Krout agreed that it is possible to write conditions in an ordinance but he is also concerned because they are showing lots that are in the Malcolm jurisdiction. Krout would rather have some time to sort this all out and come back.

Weber pointed out that the County subdivision regulation says that wells must be drilled, so he suggested that the contingency proposed by Cornelius is already in place. Hartzell clarified that the test wells would be a requirement of the CUP or preliminary plat, not the change of zone. Weber then suggested that if the applicant can't meet the water issues, then the change of zone doesn't do him any good.

The Commission took a 5-minute break while staff and the applicant conferred.

Hartzell again addressed the Commission and suggested that the access point shown by the applicant is in early discussion with the County Engineer and is in the general area that the County Engineer felt would be the safe access area. This could be addressed with the County Engineer prior to this change of zone being heard by the County Board. The requirement of the CUP or preliminary plat for the drilling of test wells would still be in place as a protection for that next step in the development process. Therefore, staff is comfortable if the Planning Commission wishes to recommend approval of the change of zone.

**ACTION BY PLANNING COMMISSION:**

May 29, 2013

Hove moved approval, seconded by Lust.

Lust emphasized how much the staff is willing to work with people and really tries to make things happen. She appreciates that in five minutes we have come from a recommendation of denial to a comfort level with approval, subject to review by County Engineer.

Scheer stated that he was not comfortable supporting this because of lack of information. The staff is always willing to help and communication is really important. It is good that we got to where we are, but it is always good to have more information to analyze before making a decision.

Weber agreed that the lack of information made it difficult, especially on the water issue.

Corr also agreed – the more information, the better, and communication is key.

Cornelius pointed out that this is a recommendation to the County Board and because of that, he is a little more comfortable supporting the change of zone than if it were final action. The issue is that the change of zone represents an acknowledgment on the part of the County that this is a suitable area for residential development. What we are missing are the assurances about access and water that would indicate that this is an appropriate location for residential development. He urged the County Board to look at those items when this comes before them. He will support this motion on the basis that we have some nebulous assurance that access is okay, and maybe water is okay. If we say it is okay for residential, then it is hard to say “no” when they come forward with a proposal for residential without proper access. Cornelius reiterated that when this change of zone comes before the County Board, he wants them to take a hard look at the access and water issues.

Motion for approval carried 7-0: Hove, Weber, Lust, Sunderman, Corr, Scheer and Cornelius voting ‘yes’. This is a recommendation to the Lancaster County Board.

There being no further business, the meeting was adjourned at 2:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on June 12, 2013.